

William J.F. Roll, III  
Solomon J. Noh  
Randall Martin  
SHEARMAN & STERLING LLP  
599 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 848-4000  
Facsimile: (646) 848-7174

*Attorneys for the Maverick Entities*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
	:	
<b>In re:</b>	:	<b>Chapter 11</b>
	:	
<b>LEHMAN BROTHERS HOLDINGS INC., et al.,</b>	:	<b>Case No. 08 – 13555 (SCC)</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
	:	
-----	X	

**STATEMENT OF ISSUES PRESENTED ON APPEAL AND  
DESIGNATION OF RECORD**

Pursuant to Federal Rule of Bankruptcy Procedure 8009, creditor appellants Maverick Long Enhanced Fund, Ltd., Maverick Neutral Levered Fund, Ltd., Maverick Neutral Fund, Ltd., Maverick Fund USA, Ltd., Maverick Fund II, Ltd. and Maverick Fund, L.D.C. (collectively, the “Maverick Entities”) respectfully submit the following statement of issues presented on appeal and designation of items to be included in the record in connection with the Maverick Entities’ appeal to the United States District Court for the Southern District of New York from the *Order Granting Plan Administrator’s Five Hundred Nineteenth Omnibus Objection to Claims (No Liability Claims)* entered on May 12, 2017 [Dkt. No. 55346] (the “Order”) in the above captioned case.

**STATEMENT OF ISSUES PRESENTED ON APPEAL**

1. Whether the Bankruptcy Court committed reversible error by disallowing the claims of the Maverick Entities.
2. Whether the Bankruptcy Court committed reversible error by holding that the Maverick Entities could not pursue their rights under certain guarantees, including an absolute and unconditional guarantee issued by Lehman Brothers Holdings, Inc., when the underlying guaranteed obligations have not been paid in full, including by:
  - a. holding that §562(a) of the Bankruptcy Code applied to modify the calculation of the amount owed to the Maverick Entities under the terms of the guarantees;
  - b. holding that the claims of the Maverick Entities should be disallowed because Maverick supposedly was seeking to recover “more from its primary obligor and guarantor in bankruptcy than it would outside of bankruptcy where a customer’s economic exposure is measured on a net basis”; and
  - c. holding that so-called “exculpation provisions” in the Prime Brokerage Agreements guaranteed by Lehman Brothers Holdings, Inc. preclude the Maverick Entities from pursuing their rights under the guarantees.
3. Whether the Bankruptcy Court committed reversible error by holding that the Maverick Entities could not pursue a claim for consequential damages as a result of the breach of the absolute and unconditional guaranty by Lehman Brothers Holdings, Inc..

**DESIGNATION OF RECORD**

<b>Designation Number</b>	<b>Description<sup>1</sup></b>	<b>Bankruptcy Court Docket Number</b>
1.	Proofs of Claim Nos. 27701, 27702, 27703, 27704, 27695, and 27696	N/A
2.	Motion Pursuant to Sections 8.4, 9.3, and 14.1 of the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors to Estimate Claims for Reserve and Distribution Purposes	49954
3.	Maverick's Objection to the Motion Pursuant to Sections 8.4, 9.3, and 14.1 of the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc.	50761
4.	Plan Administrator's Five Hundred Nineteenth Omnibus Objection to Claims (No Liability Claims)	53107
5.	Opposition of the Maverick Entities to the Plan Administrator's Five Hundred Nineteenth Omnibus Objection to Claims (No Liability Claims)	53435
6.	Reply to Response To, and in Further Support of, Plan Administrator's Five Hundred Nineteenth Omnibus Objection to Claims	55046
7.	Order Granting Plan Administrator's Five Hundred Nineteenth Omnibus Objection to Claims (No Liability Claims)	55346
8.	Notice of Appeal	55386

The Maverick Entities reserve the right to amend or supplement the above designation of items to be included in the record on appeal and the statement of issues to be presented on appeal.

---

<sup>1</sup> All exhibits to all of the below referenced items are also hereby designated.

Dated: New York, New York  
June 8, 2017

SHEARMAN & STERLING LLP

By: /s/ William J.F. Roll, III  
William J.F. Roll, III  
Solomon J. Noh  
Randall Martin  
599 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 848-4000  
Facsimile: (646) 848-7174

*Attorneys for the Maverick Entities*